

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in light of the following discussion, is respectfully requested.

Claims 1-26 are pending in this case. Claims 1-3 and 19-24 are amended by the present amendment. The changes to Claims 1-3 and 19-24 are supported in the originally-filed disclosure at least at page 48, line 13, to page 49, line 20 and page 73, lines 7-15. Thus, no new matter is added.

In the outstanding Office Action, Claims 1, 3, 10, 19, 21, 22, and 24-26 were rejected under 35 U.S.C. § 103(a) as unpatentable over Brown et al. (U.S. Pub. No. 2003/0187975 A1, herein “Brown”) in view of Haraguchi et al. (U.S. Patent No. 5,425,023, herein “Haraguchi”), further in view of Border et al. (US Patent No. 7,006,480 B2, herein “Border”); Claims 2, 4-7, 12, 20¹, and 23 were rejected under 35 U.S.C. § 103(a) as unpatentable over Brown in view of Armitage (U.S. Pub. No. 2002/0026525 A1), further in view of Border; and Claims 8, 9, 11, and 13-18 were rejected under 35 U.S.C. § 103(a) as unpatentable over Brown in view of Haraguchi, further in view of Border, further in view of Armitage.

Applicants and Applicants’ representatives thank Supervisory Patent Examiner Perez-Gutierrez and Examiner Gonzalez for the courtesy of an interview with Applicants’ representatives on January 29, 2008. The remarks presented herein substantially repeat the discussion during that interview.

Applicants respectfully traverse the rejections.

Claim 1 is directed to a node in a packet communication system that includes “a Path MTU discovery execution determining unit configured to determine whether a discovery of a

¹ Claim 20 is not listed, at the first line of page 5 of the outstanding Office Action, among the claims rejected under 35 U.S.C. § 103(a) as unpatentable over Brown in view of Armitage, further in view of Border. However, this is believed to be an oversight in light of the inclusion of Claim 20 at line 5 of page 5 of the outstanding Office Action.

Path MTU of the path from the correspondent node to the destination node should be executed, based on the path information.”

The outstanding Office Action asserts, at page 3, that Border “discloses whether a discovery of a Path MTU of the path from the correspondent node to the destination node should be executed.” At page 4, the outstanding Office Action states that “Brown...does not particularly refer to a Path MTU discover execution determining,” and asserts that Border teaches Path MTU discover execution determining.

Applicants respectfully submit that none of the cited references teach or suggest “a Path MTU discovery execution determining unit configured to determine whether a discovery of a Path MTU of the path from the correspondent node to the destination node should be executed, based on the path information,” as recited in Claim 1.

The response to the Office Action dated July 31, 2007 presented arguments that Brown does not teach or suggest at least the above-quoted feature of Claim 1. Thus, the repetition of the same assertion in the outstanding Office Action that Brown teaches a Path MTU discovery execution determining unit as recited in Claim 1, without addressing the substance of the arguments in the previous response to the same assertion, is not in accordance with the requirement of MPEP 707.07(f) that “[w]here the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant’s argument and **answer the substance of it.**”

As stated in the previous response, Brown does not teach or suggest at least the Path MTU discovery execution determining unit as recited in Claim 1.

Brown describes reducing data flow disruption when detecting Path MTU by transmitting an old, already-transmitted data packet when doing Path MTU discovery, thereby reducing the need for re-transmission if the packet is not successfully transmitted. At paragraph [0045], Brown describes **periodic** execution of Path MTU discovery and, thus,

does not teach and does not even suggest a reason to have a Path MTU discovery execution determining unit that determines “whether a discovery of Path MTU...should be executed,” as recited in Claim 1.

Further, Border, too, does not teach or suggest at least the Path MTU discovery execution determining unit as recited in Claim 1.

As discussed in the response to the Office Action dated February 6, 2007, Border describes a communication system with a platform containing a spoofing apparatus that provides performance enhancing functions. Border handles the problem of data segments exceeding maximum segment size by including, in the TCP Spoofing Kernel within the performance enhancing platform, a capability to resize data segments to be sent to the local host, the destination node. Thus, Border, too, does not teach and does not even suggest a reason to teach a Path MTU discovery execution determining unit that determines “whether a discovery of Path MTU...should be executed,” as recited in Claim 1.

Finally, Haraguchi fails to cure the deficiencies of Brown and Border with respect to at least the above-quoted feature of Claim 1.

Thus, Brown, Haraguchi, and Border, taken in combination, do not teach or suggest at least the Path MTU discovery execution determining unit as recited in Claim 1. Accordingly, Applicants respectfully request that the rejection of Claim 1 under 35 U.S.C. § 103(a) be withdrawn.

Claims 10, 11, 25, and 26 depend from Claim 1 and are, therefore, patentable for at least the same reasons as Claim 1. Further, Armitage, which is additionally cited against Claim 11, fails to cure the deficiencies of Brown, Haraguchi, and Border with respect to Claim 1. Thus, Applicants respectfully request that the rejections under 35 U.S.C. § 103(a) of Claims 10, 11, 25, and 26 be withdrawn.

Claims 2 is also directed to a node in a packet communication system and includes “a Path MTU discovery execution determining unit” though the basis for the determination is “the number of entry points of multiple tunnels” rather than path information, as recited in Claim 1.

The outstanding Office Action again cites Brown, at page 5, and then Border, at page 6, as teaching the above-quoted feature of Claim 2.

As discussed with respect to Claim 1, neither Brown nor Border teaches or suggests a Path MTU discovery execution determining unit as recited in Claim 2.

Further, Armitage fails to cure the deficiencies of Brown and Border with respect to at least the above-discussed feature of Claim 2.

Thus, Brown, Border, and Armitage, taken in combination, do not teach or suggest at least a Path MTU discovery execution determining unit as recited in Claim 2. Accordingly, Applicants respectfully request that the rejection of Claim 2 under 35 U.S.C. § 103(a) be withdrawn.

Claims 4-7, 12, 15, and 16 depend from Claim 2 and, therefore, are patentable for at least the same reasons as Claim 2. Further, Haraguchi, which is additionally cited against Claims 15 and 16, fails to cure the deficiencies of Brown, Border and Armitage with respect to Claim 2. Thus, Applicants respectfully request that the rejections of Claims 4-7, 12, 15, and 16 under 35 U.S.C. § 103(a) be withdrawn.

Claim 3 is also directed to a node in a packet communication system and includes “a Path MTU discovery execution determining unit” though the basis for the determination is “the Path MTU set by the Path MTU setting unit” rather than path information, as recited in Claim 1.

The rejection of Claim 3 in the outstanding Office Action is the same as the rejection of Claim 1.

As discussed with respect to Claim 1, Brown, Haraguchi, and Border, taken in combination, do not teach or suggest a Path MTU discovery execution determining unit as recited in Claim 3.

Thus, Applicants respectfully request that the rejection of Claim 3 under 35 U.S.C. § 103(a) be withdrawn.

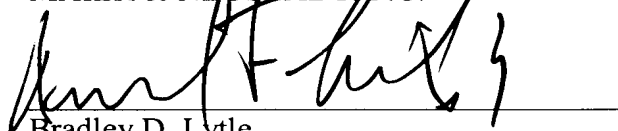
Claims 8, 9, 13, 14, 17, and 18 depend from Claim 3 and are, therefore, patentable for at least the same reasons as Claim 3. Further, Armitage, which is additionally cited against Claims 8, 9, 13, 14, 17, and 18, fails to cure the deficiencies of Brown, Border, and Haraguchi with respect to Claim 3. Thus, Applicants respectfully request that the rejection of Claims 8, 9, 13, 14, 17, and 18 under 35 U.S.C. § 103(a) be withdrawn.

Claims 19-24, though differing in scope and/or statutory class from Claims 1-3, are believed to patentably define over any of Brown, Haraguchi, Border, and Armitage, considered alone or together in proper combination, for substantially the same reasons discussed above with respect to Claims 1-3. Thus, Applicants respectfully request that the rejections of Claims 19-24 under 35 U.S.C. § 103(a) be withdrawn.

Accordingly, the outstanding rejections are traversed and the pending claims are believed to be in condition for formal allowance. An early and favorable action to that effect is, therefore, respectfully requested.

Respectfully submitted,

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